

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have amended claims 45-49, 54-60, 62, 65-67, 69-74, 77-84, and 87; and claims 61, 63-64 and 68 have been canceled. Accordingly, claims 45-60, 62, 65-67 and 69-90 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 102(e)

The Examiner rejected claims 45-50, 54-56, 60, 74, 77-84 and 87-90 under 35 U.S.C. § 102(e) as being anticipated by Kinrot (US 6,574,193). The Applicants have amended the claims to better distinguish the claimed invention from Kinrot. Kinrot is concerned with congestion control in the core network. The present invention is concerned with control in a wireless network, specifically, the control of air interface resources and monitoring of the availability of the resources based on the condition of the air interface and the nature of the information being transmitted over that air interface (e.g., voice, fax, data). The amendments to independent claims 45, 54, 74, 77, 79, 81 and 87 narrow the claims to control of data across a wireless communication system based on the activity across an air interface, not just across an ATM network, as in Kinrot. In the present invention, the change of data rates may occur on the core network (ATM), but such changes are not mandated to be made there, as in the case of the Kinrot invention.

ATM is an International Telecommunication Union-Telecommunications Standards Section (ITU-T) standard for cell relay wherein information for multiple service types, such as voice, video, or data, is conveyed in small, fixed-size cells. ATM networks are connection-oriented. Kinrot is entirely concerned with congestion control in an ATM network, and does not address issues arising in connection with access nodes and air interfaces in a wireless communications network. Kinrot does not discuss handling of varied bit rates necessitated by the condition of the air interface nor the nature of information transmitted over the air interface. For these reasons, claims 45-

50, 54-56, 60, 74, 77-84 and 87-90 are distinguishable from Kinrot. Support for the amendments can be found on page 3, lines 27-32.

Claims 46-50 depend from amended claim 45 and recite further limitations in combination with the novel elements of claim 45. Claims 55-56 and 60 depend from amended claim 54 and recite further limitations in combination with the novel elements of claim 54. Claims 78-80 depend from amended claim 77 and recite further limitations in combination with the novel elements of claim 77. Claims 82-84 depend from amended claim 81 and recite further limitations in combination with the novel elements of claim 81. Claims 88-90 depend from amended claim 87 and recite further limitations in combination with the novel elements of claim 87. Therefore, the allowance of claims 45-50, 54-56, 60, 74, 77-84 and 87-90 is respectfully requested.

5.) Claim Rejections – 35 U.S.C. § 103(a)

The Examiner rejected claims 51, 57, 75 and 85 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of ITU-T Recommendation 1.366.1 (Segmentation and Reassembly Service Specific Convergence Sublayer for the AAL Type 2). The Applicants have amended independent claims 45, 54, 74 and 81, on which claims 51, 57, 75 and 85 directly or indirectly depend, and claim 57, to better distinguish the claimed invention from Kinrot and ITU-T Recommendation 1.366.1. As noted above, Kinrot is concerned with congestion control in the core network, as is ITU-T Recommendation 1.366.1. The present invention is concerned with control in a wireless network, specifically, the control of air interface resources and monitoring of the availability of the resources based on the condition of the air interface and the nature of the information being transmitted over that air (e.g., voice, fax, data). The amendments to independent claims 45, 54, 74 and 81 narrow the claims to control based on the air interface, not just across an ATM network, as in Kinrot and ITU-T Recommendation 1.366.1.

Claim 51 depends indirectly from amended claim 45 and recites further limitations in combination with the novel elements of claim 45. Claim 57 depends indirectly from amended claim 54 and recites further limitations in combination with the novel elements of claim 54. Claim 74 depends from amended claim 75 and recites

further limitations in combination with the novel elements of claim 74. Claim 85 depends from amended claim 81 and recites further limitations in combination with the novel elements of claim 81. Therefore, the allowance of claims 51, 57, 75 and 85 is respectfully requested.

The Examiner rejected claims 52, 53, 58, 59, 61-73, 76 and 86 under 35 U.S.C. § 103(a) as being unpatentable over Kinrot in view of Brueckheimer, et al. (US 6574224). The Applicants have canceled claims 61, 63-64 and 68 and amended independent claims 45, 54, 74 and 81, on which claims 52, 53, 58, 59, 62, 65-67, 69-73, 76 and 86 directly or indirectly depend to better distinguish the claimed invention from Kinrot and Brueckheimer. As noted above, Kinrot is concerned with congestion control in the core network. Brueckheimer only discloses an arrangement for interfacing devices between TDM and ATM networks. In holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to select the references and combine them in the way that would produce the claimed invention. (See *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1385 (Fed. Cir. 2001)). There is no such suggestion nor motivation in Kinrot nor Brueckheimer to combine them to obtain an apparatus adapted to perform control monitoring functions in a wireless network, specifically, the control of air interface resources and monitoring of the availability of the resources based on the condition of the air interface and the nature of the information being transmitted over that air (e.g., voice, fax, data) as disclosed in claims 52, 53, 58, 59, 62, 65-67, 69-73, 76 and 86.

The Examiner further states that it would have been obvious to combine the teachings of Brueckheimer to operate under different types of network infrastructures such as wireless, cellular and/or fixed access networks. However, there must be "some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references" (See *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988)).

Claim 53 depends indirectly from amended claim 45 and recites further limitations in combination with the novel elements of claim 45. Claims 58, 59, 62, 65-67, and 69-73 depend from amended claim 54 and recite further limitations in

combination with the novel elements of claim 54. Claim 76 depends from amended claim 74 and recites further limitations in combination with the novel elements of claim 74. Claims 86 depends from amended claim 81 and recites further limitations in combination with the novel elements of claim 81. Therefore, the allowance of claims 53, 58, 59, 62, 65-67, 69-73, 76 and 86 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 45-60, 62, 65-67 and 69-90.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

/Michael Cameron, #50,298/

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Michael Cameron
Registration No. 50,298

Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-4145
michael.cameron@ericsson.com